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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,752	09/04/2003	Bradley Pesu	130-076	9059

7590

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EXAMINER

PAIK, SANG YEOP

ART UNIT

PAPER NUMBER

3742

DATE MAILED: 02/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/656,752

Applicant(s)

PESU ET AL.

Examiner

Sang Y Paik

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2004.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-66 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-66 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 4, 5, 9-20, 22, 24-38, 42-46, and 49-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruffolo et al (US 6,236,807) in view of Millan (US 6,278,840) or Junkel (US 6,044,202).

Ruffolo et al shows an air freshener with a housing for holding a circuit having a light emitting diode, a heater disposed in a ceramic heater block for conducting or radiating heat, electrical connectors to receive current from a power source, a container made of a translucent material such as glass for holding a volatile substance, a decorative shield, a wick inserted in the container and protruding through the heater block, the housing with a socket for holding the container, and a dome for venting out or facilitating the release of the heated substance. However, Ruffolo et al does not show that the heater is a resistor.

Millan and Junkel show an air freshener with a resistor as the heater for providing the necessary heat to vaporize the volatile substance. Junkel also further shows a rectifier to rectify the AC current source to provide a constant DC to power the heater.

In view of Millan and Junkel, it would have been obvious to one of ordinary skill in the art to adapt Ruffolo et with the resistor as the heater to alternatively provide the necessary power to heat the volatile substance, and further adapt with a rectifier to convert AC current to DC current to power an electrically resistive resistor.

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With respect to the recitation of the aromatic substance or of a scented oil, Ruffolo et al shows the volatile substance as a fragrant liquid. And, while it does not explicitly show the hydrocarbon or scented oil, it would have been obvious to one of ordinary skill in the art to provide the aromatic substance to include hydrocarbon or any other materials to provide the desired scent. Furthermore, it is noted to the applicant that the aromatic substance, which is an article or material that is worked on by the apparatus, does not limit apparatus claim (see, also, MPEP 2115).

5. Claims 3, 20, 21, 47, 48, 53, 54, and 58-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruffolo et al in view of Millan or Junkel as applied to claims 1, 2, 4, 5, 9-20, 22, 24-38, 42-46, and 49-52 above, and further in view of Wattson (US 3,373,341) or Roland et al (US 3,386,005).

Ruffolo et al in view of Millan or Junkel shows the structure and method claimed except providing a shunt diode including a full-wave bridge rectifier.

Wattson or Roland et al shows that it is well known in the art to provide a shunt diode such as full-wave bridge rectifier connected in parallel with a load to provide a constant DC current source. In view of Wattson or Roland et al, it would have been obvious to one of ordinary skill in the art to adapt Ruffolo et al, as modified by Millan or Junkel, with a shunt diode such as a full-wave bridge rectifier to provide a constant DC power source from an AC power source to power an electrically resistive resistor and light emitting diode.

6. Claims 6, 23, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruffolo et al in view of Millan or Junkel as applied to claims 1, 2, 4, 5, 9-20, 22, 24-38, 42-46, and 49-52 above, and further in view of Jackson (US 5,274,215) or Patel (US 5,716,119).

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Ruffolo et al in view of Millan or Junkel shows the structure and method claimed except providing a fiber optical cable coupled to the light emitting diode.

Jackson and Patel shows a fiber optical cable coupled with a lighting source to provide an illumination along the fiber optical cable for aesthetic appearances. It would have been obvious to one of ordinary skill in the art to adapt Ruffolo et al, as modified by Millan or Junkel, with a fiber optical cable to provide an illumination that would be more aesthetically appealing.

7. Claims 7, 8, 40, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruffolo et al in view of Millan or Junkel as applied to claims 1, 2, 4, 5, 9-20, 22, 24-38, 42-46, and 49-52 above, and further in view of Muderlak et al (US 5,175,791).

Ruffolo et al in view of Millan or Junkel shows the structure and method claimed except providing an electrical thermal fuse.

Muderlak et al shows an air freshener with an electrical thermal fuse to prevent overheating. In view of Muderlak et al, it would have been obvious to one of ordinary skill in the art to adapt Ruffolo et al, as modified by Millan or Junkel, with an electrical thermal fuse to prevent overheating to the heater circuit.

8. Claim 55 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ruffolo et al in view of Millan, Junkel, Wattson and Roland et al as applied to claims 3, 20, 21, 47, 48, 53, 54, and 58-66 above, and further in view of Jackson (US 5,274,215) or Patel (US 5,716,119).

Ruffolo et al in view of Millan, Junkel, Wattson and Roland et al shows the structure and method claimed except providing a fiber optical cable coupled to the light emitting diode.

Jackson and Patel shows a fiber optical cable coupled with a lighting source to provide an illumination along the fiber optical cable for aesthetic appearances. It would have been obvious

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to one of ordinary skill in the art to adapt Ruffolo et al, as modified by Millan, Junkel, Wattson and Roland et al, with a fiber optical cable to provide an illumination that would be more aesthetically appealing.

9. Claims 56 and 57 rejected under 35 U.S.C. 103(a) as being unpatentable over Ruffolo et al in view of Millan, Junkel, Wattson and Roland et al as applied to claims 3, 20, 21, 47, 48, 53, 54, and 58-66 above, and further in view of Muderlak et al (US 5,175,791).

Ruffolo et al in view of Millan, Junkel, Wattson and Roland et al shows the structure and method claimed except providing an electrical thermal fuse.

Muderlak et al shows an air freshener with an electrical thermal fuse to prevent overheating. In view of Muderlak et al, it would have been obvious to one of ordinary skill in the art to adapt Ruffolo et al, as modified by Millan, Junkel, Wattson and Roland et al, with an electrical thermal fuse to prevent overheating to the heater circuit.

### ***Response to Arguments***

3. Applicant's arguments filed 12/06/04 have been fully considered but they are not persuasive. The applicant argues that Ruffolo is an improper reference under 35 U.S.C. 103 since the prior art is commonly owned by the same assignee. However, it is noted that Ruffolo is qualified as a 102(b) reference and not 102(e) reference under 35 U.S.C 103. It is noted that the section MPEP 706.02(l)(1) applies to the 102(e) reference and not the 102(b) reference. Thus, the applicant's argument is not deemed persuasive.

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sang Y Paik whose telephone number is 571-272-4783. The examiner can normally be reached on M-F (9:00-4:00) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sang Y Paik  
Primary Examiner  
Art Unit 3742

syp